Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Hollingsworth, et al.	Analyst:	Angela Raygoza	Bill Number:	SB 1064
Related Bills:	See Prior Analysis	Telephone:	845-7814	Amended Date:	July 14, 2008
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/2007 Calendar Year Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, And Ventura County Wildfires And October 2007 Riverside County Damaging Winds

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ________________.

__X__ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended ________________.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ________________.

__X__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED January 8, 2008, STILL APPLIES.

____ OTHER – See comments below.

SUMMARY

This bill would allow special tax treatment, called disaster loss treatment, for losses sustained as a result of the wildfires that occurred on September 15 and October 21, 2007, in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura counties and October 2007 Riverside county damaging winds. This bill would also add the wildfires that occurred in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz, Shasta, and Trinity counties as a result of wildfires that occurred in May and June 2008 and Santa Barbara county in July 2008.

SUMMARY OF AMENDMENTS

The July 14, 2008, amendments would add the wildfires that occurred in May and June 2008 in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz, Shasta, and Trinity counties and in July 2008 in Santa Barbara county.

Board Position:			Asst. Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Patrice Gau-Johnson	7/28/08
____ N	____ OUA	__X__ PENDING		

As a result of the July 14, 2008, amendments, the “Program Background,” “This Bill,” and “Economic Impact” discussions, as provided in the department’s analysis of the bill as amended June 19, 2008, have been revised. Except for these amended discussions provided in this analysis, the remainder of the department's analysis of the bill as amended June 19, 2008, still applies.

ANALYSIS

PROGRAM BACKGROUND

Governor Arnold Schwarzenegger proclaimed on September 15 and October 21, 2007, a state of emergency declaring the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura counties to be a state disaster. On October 23, 2007, President George W. Bush proclaimed the same counties to be a federal disaster.

On November 2, 2007, Governor Arnold Schwarzenegger proclaimed, the wind damage that occurred in Riverside county in October, 2007, to be a state disaster. President George W. Bush did not declare the Riverside county wind damage a federal disaster.

In May, June, and July of 2008, Governor Arnold Schwarzenegger proclaimed states of emergency, declaring wildfires that occurred in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity counties to be state disasters. On June 28, 2008, President George W. Bush declared the same counties to be a federal disaster.

<u>THIS BILL</u>

This bill would add the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura counties during calendar year 2007; damage that occurred in the Riverside county during October, 2007, as a result of strong winds; and the wildfires that occurred in May, June, and July 2008, in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity counties to the current list of specified disasters under the Personal Income Tax (PIT) Law and the Corporation Tax Law (CTL).

As a Presidentially-declared disaster this bill would allow special carry forward treatment for up to 15 taxable years for losses sustained as a result of the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura counties during calendar year 2007. In addition, the wildfires that occurred in May, June, and July 2008, in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity counties were Presidentially-declared disasters. The same carry forward rule applies to individual nonbusiness losses if the total losses for the year exceed 10% of the individual’s federal adjusted gross income (AGI).

As a Governor-proclaimed disaster, this bill would allow a taxpayer to elect to file an amended return for the prior taxable year and allow special carry forward treatment for up to fifteen taxable years for losses sustained as result of the October, 2007, Riverside county damaging winds. The same carry forward rule applies to individual nonbusiness losses if the total losses for the year exceed 10% of the individual's federal AGI.

ECONOMIC IMPACT

<u>Revenue Estimate</u>

The revenue impact from this bill would be as follows:

Revenue Analysis for SB 1064 – as amended July 14, 2008 Effective for tax year BOA January 1, 2008 Assumes Enactment after June 30, 2008				
Fiscal Year	2007-08	2008-09	2009-10	Total for three years
Disaster Relief	Loss < $250k	Gain < $150k	Gain < $150k	Loss < $150k

This analysis does not consider any possible changes in employment, personal income, or gross state product that could result from this bill.

<u>Revenue Discussion</u>

2007 Southern California Wildfires

The most current data from the Office of Emergency Services (OES) indicates a total of 2,180 structures were destroyed and 482 were damaged as a result of the October, 2007, Southern California Wildfires (total structures = 2,662). Research conducted suggests approximately $1.6 billion of insured property losses were sustained as a result of the targeted wildfires and another $400 million was uninsured for a total of $2 billion in damages.

It is estimated that 90% of uninsured losses would exceed the minimum AGI threshold resulting in total casualty loss deduction of $360 million ($400 million x 90% = $360 million). The average affected taxpayer would have a potential casualty loss of approximately $135,000 ($360 million ÷ $2,662 structures).

Current law allows taxpayers with disaster losses to amend their 2006 tax returns until April 15, 2008; this bill extends the filing period until October 15, 2008. It is likely that most taxpayers affected by the fires will have filed an amended return claiming their fire losses under current law by April 15 to receive an accelerated refund. Based on expectations concerning taxpayer filing behavior, it is assumed that 1% of the value of casualty losses would be filed on an amended 2006 return and that half of those losses would be used to offset reported income. The revenue loss accrued to 2007-08 would be $162,000 ($360 million x .01 assumption rate x .50 of the losses x .09 marginal tax rate = $162,000), a negligible loss of less than $250,000.

To the extent these deductions would have been claimed in later years had they not been taken in 2006, there is an insignificant revenue gain in those later years. Therefore, for 2008-09 and 2009-10, there would be insignificant revenue gains of less than $150,000 in each year, resulting in an insignificant net revenue loss for the three-year period of less than $150,000.

Under current law, affected taxpayers have ten years to deduct their disaster losses. Given that the average casualty loss for the fires is estimated to be $135,000, it is unlikely that many taxpayers will have losses remaining after 10 years. Therefore, the long-term revenue effect of the additional five years of carryover beyond the ten years currently allowed is assumed to be insignificant.

Riverside County Wind Damage

The Governor's proclamation indicated that the extremely high winds in Riverside County "have caused over six million dollars in public facility damage." Uninsured losses represent 20% of the total losses, resulting in uninsured losses of $1.2 million ($6 million x .20 = $1.2 million).

Based on expectations concerning taxpayer filing behavior, it is assumed that 25% of the value of casualty losses would be filed on an amended 2006 return and that 90% of those losses would exceed the minimum AGI threshold. The result would be an accrued revenue loss for 2007-08 of $27,000 ($1.2 million x .25 of the losses x .09 marginal tax rate = $27,000), an insignificant loss of less than $150,000.

Under current law, affected taxpayers have ten years to deduct their disaster losses. Given that the average casualty loss for the winds is less than $10,000, it is unlikely that many taxpayers will have losses remaining after 10 years. Therefore, the long-term revenue effect of the additional five years of carryover beyond the ten years currently allowed is assumed to be insignificant.

2008 California Wildfires

Research conducted indicates the 2008 wildfires destroyed approximately 200 properties. It is estimated that the average value of these properties is $400,000 and that 20% of this value is uninsured, for a total of $16,000,000 (200 properties destroyed x $400,000 avg. value x .20 uninsured losses). It is assumed that 90% or $7.2 million of these losses exceed the AGI threshold and that taxpayers could claim 50% of these losses in one year ($16,000,000 x .90 x .50 = $7.2M). Applying a 9% tax rate, the total amount that could be refunded is $648,000 ($7,200,000 x .09 = $648,000). Using a 1% assumption to estimate those who would delay the filing of an amended return beyond April 15, 2009, the revenue effects would be approximately $6,480 ($648,000 x .01 = $6,480). The prior estimate of a revenue loss of less than $250,000 would be unchanged.

The extended carryover period is assumed to have no added revenue effect given the small amount of losses eligible for carryover.

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